

IN THE UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF GEORGIA
SAVANNAH DIVISION

FILED
U.S. DISTRICT COURT
SAVANNAH DIV.
2019 MAR 25 AM 11:10

BENJAMIN JAMON MAXWELL, SR.,)

Plaintiff,)

v.)

SHERIFF JOHN WILCHER, OFFICER)
AGULAR, and OFFICER BRIGHT,)

Defendants.)

CASE NO. CV419-018

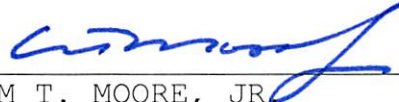
O R D E R

Before the Court is the Magistrate Judge's Report and Recommendation (Doc. 11), to which objections have been filed (Doc. 12). In the report and recommendation, the Magistrate Judge concluded that Plaintiff alleged enough facts at this stage to maintain his excessive force claims against Defendants Officer Bright and Officer Agular. (Doc. 11 at 3.) However, the Magistrate Judge found that Plaintiff failed to properly allege any viable claim against Defendant Sheriff Wilcher. (Id. at 3-4.)

In his objections, Plaintiff provides a variety of new factual allegations against Defendant Wilcher. (Doc. 12.) These allegations are based on facts never alleged in Plaintiff's initial complaint. Because Plaintiff brought this suit pro se, the Court will allow Plaintiff one final opportunity to amend his complaint. Accordingly, the Court **DECLINES TO ADOPT** the

portion of the report and recommendation that recommends dismissal of Defendant Wilcher.¹ Plaintiff is **DIRECTED** that he has **14 days** from the date of this order to file an amended complaint that details all of his claims and the factual allegations to support those claims. Plaintiff cannot simply raise claims or allegations in his objections that are not clearly alleged in his complaint. Plaintiff is instructed that the Court will not accept any allegations incorporated by reference. Instead, Plaintiff should file one amended complaint which clearly details all claims he wishes to pursue.

SO ORDERED this 25th day of March 2019.



WILLIAM T. MOORE, JR.
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA

¹ The Court agrees with the Magistrate Judge's conclusion that service upon Defendants Aguilar and Bright is appropriate.